THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 23464 of 2007

Date:06-11-2007

Between:

Kasa Hanumantha Rao

...

Petitioner

AND

The R.D.O., Narsapur and another

..

Respondents

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ORDER:

The petitioner seeks a writ of mandamus to declare the action of the 1st respondent in not entertaining the appeal against the order of the 2nd respondent dated 26.07.2007 passed under Section 6 of the A.P. Land Encroachment Act on the premise that the 1st respondent is not the competent authority vide L.P.No.2590/2007(SDT), dated 08.10.2007, as illegal and arbitrary and consequently direct the 1st respondent to entertain the appeal filed by the petitioner and dispose of the same on merits.

It is the case of the petitioner that against the order, dated 26.07.2007 passed by the Tahsildar, Elamanchili under Section 6 of the A.P. Land Encroachment Act (for short 'the Act'), the petitioner filed an appeal before the Revenue Divisional Officer, Narsapuram who in turn vide endorsement L.P.No.2590/2007 (SDT), dated 08.10.2007 rejected the appeal on the ground that the appeal lies under Section 10(1)(a) of the Act against the order of the Tahsildar to the District Collector.

Under Section 1A(a) of the Act, Collector means any officer incharge of a revenue division and includes a Deputy Collector and Sub-Collector and Assistant Collector. Therefore, I am of the opinion that against the orders passed by the Mandal Revenue Officer, an appeal lies to the Revenue Divisional Officer as the Revenue Divisional Officer is also Collector within the meaning of the said section. Therefore, the endorsement, dated 08.10.2007 given by the first respondent holding that the appeal lies to the Collector against the

order of the Tahsildar under Section 10(1) of the Act is incorrect.

The learned Government Pleader appearing for the respondents also submits that the appeal lies to the Revenue Divisional Officer against the order of the Tahsildar.

Having regard to the facts of the case, the writ petition is allowed setting aside the impugned order and the matter is remitted to the Revenue Divisional Officer, Narsapuram to entertain the appeal and pass appropriate orderS in accordance with law. Pending the said appeal before the Revenue Divisional Officer, Narsapuram, status-quo with regard to the possession of land an extent of Ac.0.05 cents in R.S.No.277 situated in Yelamanchili village shall be maintained. No costs.

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V.ESWARAIAH, J.

Date:06.11.2007
ccm